

John N. Pike

REPORT OF COMMITTEE

ON PART OF

ADDRESS OF R. E. GRAND COMMANDER, OF MAY, 1881.

IN GRAND COMMANDERY OF MASSACHUSETTS AND RHODE
ISLAND.

ANNUAL CONCLAVE, October 28th, 1881.

The Committee appointed at the last Semi-Annual Conclave to consider so much of the R. E. Grand Commander's Address as relates to *Decisions* and *Dispensations*, has given the subject such attention as was in their power, and fraternally submit the following report:

The Dispensations reported by the R. E. Grand Commander as having been granted by him, seem to have been strictly within the line of his authority and according to the practice of his predecessors in office. Your Committee not even thinking it necessary to refer such acts of the Grand Commander as do not require the approval of this Grand Body to a committee, may be content in saying that his unquestioned prerogative has been judiciously exercised.

The only *decision* reported by the R. E. Grand Commander, which was given at the request of Washington Commandery, involved the question of the relations of members of that Commandery, who had signed a petition to form a new Commandery, to the former Body, and was to this effect, viz.: "that neither

the rights, privileges or obligations of any member or officer of Washington Commandery were impaired or changed by reason of their being petitioners for, or active under, the Dispensation granted to *Temple* Commandery, and that these were to be recognized until membership is terminated by formal dimit from Washington Commandery."

The question here to be considered, although at the first glance, it may seem simple and easy of solution, is nevertheless surrounded by certain complications, which cause it to assume perhaps a graver importance than any question presented to this Grand Body during the entire course of its history. It becomes us, therefore, by the use of such care and elaboration as may be needful for a full consideration of the subject, in all its aspects, to enter upon the duty before us with candor, with fraternal good will, with patience, and above all, with knightly freedom and manliness.

The R. E. Grand Commander, having upon his official responsibility, enunciated the decision now under review, not as a simple opinion upon a question of Masonic law or practice, which might carry with it only the weight of his own personality, but as his determination and judgment upon a case actually presented, it is proper, in the first instance, to consider the inherent and essential qualities of a Masonic Body under Dispensation, and the necessary Masonic relations of all parties thereto.

Some recent Masonic writers have asserted that Dispensations, as the term is now understood, are wholly of modern origin. But while the practice, now so prevalent, of starting the existence of a Masonic Body through the instrumentality of a Dispensation granted by the Grand Master, to perform the work of a Lodge, for which a Charter may be subsequently issued, establishing the petitioners as a Lodge is of somewhat recent date, the fact is, that the idea of a Dispensation and its reduction to occasional practice, are sufficiently old to command our veneration as Masons. The *Seventh* of the Ancient Landmarks, of the fraternity, as given by Dr. Mackey, is as follows:

"The prerogative of the Grand Master to give Dispensation for opening and holding Lodges" is another landmark. He may grant, in virtue of this, to a sufficient number of Masons, the privilege of meeting together and conferring degrees. The Lodges thus established are called "Lodges

It thus appears that in the early days of Masonry in England, it was considered that the power described in this Landmark was one, the exercise of which the necessities or the welfare of the Craft might sometime require.

The first Dispensation to form a new Lodge in Massachusetts, so far as the records of the Grand Lodge show (and which was probably the first instance of the kind in the country,) was granted June 8th, 1795, to form "Columbian" Lodge in the town of Boston. This, although termed a Dispensation, was in fact a limited Charter, conferring upon the petitioners all the rights and privileges of a regular Lodge for a term of twelve months, and was afterwards made a perpetual charter.

Under the general practice of Masonic Grand Bodies in this country in recent years, Dispensations have been issued preliminary to the granting of Charters. The nature therefore, of Bodies under Dispensation, with the scope and limitation of their powers, should be carefully observed, and may, perhaps, be more satisfactorily elucidated by a citation of the well-considered opinions and judgments of Masonic jurists, whose conclusions upon such a subject may well be deemed authoritative.

Brother Chalmers I. Paton, the distinguished author of "Freemasonry and its jurisprudence," in his commentary upon Lodges under Dispensation, as related to the *Seventh* Landmark, says:

"They are strictly creatures of the Grand Master, created by his authority, existing only during his will and pleasure, and liable at any moment to be dissolved at his command. Whatever be the period of their existence, they are indebted for that existence solely to the grace of the Grand Master." p. 7.

As to the rights of Lodges under Dispensation, he further says:

"It is evident that his creature, the Lodge, which derives its existence from his Dispensation, can possess no prerogatives which did not originally rest in him who created it; therefore, a Lodge under Dispensation cannot, 1st, be represented in the Grand Lodge; 2d, cannot make By-Laws; 3d, cannot elect office-bearers; 4th, cannot install officers; 5th, cannot elect members. There is no authority in the instrument that convened them to do anything else except to make Masons." pp. 181-3.

Still further, he adds:

"In a Lodge under Dispensation none but the Master and Wardens have a *right* to elect candidates. While no *right* exists, however, it is scarcely

necessary to add, that it is not always proper or courteous to push the law with rigor to its utmost limit, but this is an act of courtesy." pp. 184-5.

Another distinguished Scotch writer, Bro. Kenneth R. H. Mackenzie, succinctly says:

"A Lodge under Dispensation has no representative abilities, and a mere *ad interim* status."

These authorities are cited because in Scotland Dispensations to form Lodges seem to be common, while under the Grand Lodge of England the practice is otherwise.

It is, however, in the United States that the practice of initiating the existence of Lodges by Dispensation from the Grand Master has been most prevalent, and here, therefore, sound and rational views in respect to the nature and powers of the Bodies thus formed may reasonably be expected. Let us then examine the American authorities.

Dr. Mackey, (that great light in the Masonic firmament so recently extinguished,) says of Lodges under Dispensation:

"They cannot do anything except congregate, enter, pass, and raise Freemasons." "The Dispensation expressly specifies that the persons to whom it is given are allowed to congregate that they may admit, enter, pass, and raise Freemasons; *no other powers* are conferred, either by words or implication." "A Lodge under Dispensation is, more properly speaking, a congregation of Masons, acting as the proxy of the Grand Master." * * "In giving them permission to meet and make Masons, he gave them no power to do anything else. A Lodge under Dispensation can elect no members."

Mackey's principles of Masonic law, p. 93, et seq.

"A Lodge under Dispensation is described as a temporary and inchoate Body, not entitled to representation in the Grand Lodge, and those who work in it do not thereby forfeit their membership in any other Lodge, unless they so elect at the time when the Warrant of Constitution issues." Principles and practice of Masonic jurisprudence. John W. Simons, P. G. Master of New York p. 66.

"A member of a Chartered Lodge does not lose his membership therein, nor sever himself from his *rights* as well as obligations as such member, by joining in the organization and aiding in the work of a new Lodge under Dispensation, even if he be one of the petitioners for such Dispensation."

Hubbard, P. G. M. of Ohio and P. G. M. of Grand Encampment of U. S. Address of 1851.

"The privileges now generally conceded to Lodges under Dispensation are, simply the right to meet, and initiate, pass, and raise candidates."

Chase's Masonic Digest, p. 139.

"It seems to be generally admitted that a Mason may become attached to a Lodge under Dispensation, without forfeiting his membership in the Chartered Lodge."

Morris' Am. F. M., v. 12.

"A Lodge under Dispensation possesses no power except that of acting upon the application of candidates for the degrees and conferring the same."

Lockwood's Masonic law and practice, p. 28.

"If the Lodge be not constituted, it is not a regular Lodge, and can legally do nothing."

Mitchell's common law of Masonry, p. 205.

"The petitioners to whom a Dispensation is granted need not dimit from their Lodges, but may remain members thereof until a Charter is granted the new Lodge, when they must withdraw from one of the Lodges."

Tennessee Masonic Text Book, p. 271.

No Masonic jurist or author in any country has treated the question at issue with more clearness or force of reasoning than the late Sir Charles W. Moore, and no higher authority upon such a subject can be named. No apology, therefore, is necessary for the citation of extracts written by him upon the question, at different periods, for the Freemasons' Magazine:

"A Dispensation, whether issued by the Grand Lodge or the Grand Master, authorizes the petitioners 'to form and open a Lodge after the manner of Ancient, Free and Accepted Masons,' and therein to admit and make Freemasons according to the ancient customs, and not otherwise. This is all the power conferred by a Dispensation. It does not invest the Brethren holding it with the powers or the privileges of a Regular Lodge, except so far as to assemble and make Freemasons. It does not even empower them to elect or change their principal officers, nor does it confer on their Master and Wardens the privilege of representation in the Grand Lodge. (Vide Ancient Constitutions, Art. 'Grand Lodge.') They are placed in a state of probation for a specified time, preparatory to being constituted into a regular Lodge. They form and open '*after the manner*' of a Lodge, but not with the full powers and privileges of a Lodge."

Freemasons' Mag., vol. 5, p. 164, et seq.

"Petitioners for a new Lodge belong to an association in a *chrysalis* state; it did not exempt them from any of their liabilities or deprive them

of any of their privileges as members of a constituted Lodge; they did not cease to be members until the new Lodge was constituted."

Ib., vol. 5., pp. 257-8.

"Lodges working under Dispensation are Lodges in *abeyance*, and not in reality; they cannot add to their numbers, nor fill vacancies, except by special permission from the competent authority. Charters are granted to the petitioners and their *successors*, while Dispensations run to the petitioners only. Their initiates are not returned to the Grand Lodge as members, for, not having been constituted, the Lodge possesses no power to admit members. The members of it are themselves a *mere association, working* after the manner of a Lodge and not in the full capacity of a Lodge."

Ib., vol. 7, p. 33, et seq.

"Petitioners for a new Lodge remain members of their old Lodges until a Charter is granted, and can be held for their dues up to that time."

Ib., vol. 9, p. 200.

"A Lodge under Dispensation is not empowered to have or receive any members at all. Indeed, it is not, in reality and in fact, a Lodge, but only a temporary association of Masons, empowered by the Grand Master to meet for special purposes."

Ib., vol. 14, p. 358.

"Membership in the one, (i. e., the old Lodge,) ceases, and commences in the *other*, when the new Lodge is duly constituted."

Ib., vol. 15, pp. 277-8.

"The petitioners for a new Lodge should remain members of the old Lodge until they have secured a safe place in the former by virtue of its Charter."

Ib., vol. 29, p. 278.

The foregoing citations seem to determine very clearly the weight of authority in regard to the nature and functions of Masonic Bodies under Dispensation. No writer of national reputation, so far as we are informed, dissents from the views thus expressed. These exponents of our Masonic law leave no doubt as to the narrow limits within which a Lodge under Dispensation is hedged according to the best adjudications upon this subject, showing that it has no positive functions except the power to congregate and make Masons, and that even in the exercise of these functions, it is the agent or proxy of the Grand Master, responsible to no earthly authority but his, and, as a consequence, that it can exercise no further or other power of a chartered Lodge.

The enunciation of the law upon this subject as seen in the authorities cited, is clear and uniform to the effect that a member of a Chartered Lodge, who petitions for a Dispensation to form a *new* Lodge, loses none of his rights as a member of the former, until the latter is chartered. Upon an examination of the practice of the several State Grand Lodges, we discover differences in the mode of applying the theoretic principles to which reference has been made. *Fifteen* Grand Lodges have adopted a regulation that before a brother can become a petitioner for a *new* Lodge, he shall procure a dimit from his old Lodge. This regulation while it recognizes the nature or inherent quality of a Lodge under Dispensation, and while it specially recognizes the all important truth that not the Grand Body but the *subordinate* only, can dissolve or suspend the relation of membership, does not seem, in the judgment of your Committee, fairly to take into view the fact that in the nature of the subject matter, there can be no such thing as membership in a Lodge under Dispensation. Obviously the intent of such a regulation is to guard against *dual* membership, that bugbear which seem to frighten so many of our Grand Lodges out of their wits. But the rule practically puts the petitioner out of his membership in the Chartered Body, and gives him no membership in, but only the phantom of a name upon the rolls of an association, or "*chrysalis*" organization, so that after the petition and prior to the Charter, he has no effective membership anywhere. The Grand Lodge of England and the Grand Lodge of Virginia entertain no such fear of dual membership, but permit the Brethren of their respective jurisdictions to join as many Lodges as they are willing to pay dues in. Moreover, if under the rule of the fifteen Grand Lodges, it could be established that the dimitted petitioner can acquire any substantial membership in the new Body prior to its Charter, it is somewhat difficult to discern the harm caused to the Fraternity by the retention also of his original membership thereby. The crying evil in this country, as we respectfully submit, is not *double*-affiliation, but *non*-affiliation. Lazy, indifferent, or otherwise indisposed Brethren will not join even *one* Lodge, and a rule which would permit them to join two or more, might be wholesome under the present conditions.

It is only just and candid to say, in this connection, that in the Grand Lodges of five States and two Territories, the essential legal qualities of a Lodge under Dispensation, as well as the rights of Brethren in Chartered Lodges, are so far ignored that the membership of a petitioner for a new Lodge is held under abeyance until the Charter is granted.

But the law, as laid down by the Masters of American Masonic jurisprudence, has been and now is strictly followed in the practice, not only of the Grand Lodges of Massachusetts and Rhode Island, but of New Hampshire, Maryland, Delaware, South Carolina, Ohio, Illinois, Louisiana, Florida, Nebraska, Utah, Georgia, Wyoming, Oregon and Texas.

Pennsylvania has no Lodges under Dispensation and Virginia, as has already been seen, allows membership in as many Lodges as a Brother pleases to join. Under the regulations and practice of the two Grand Lodges which cover the jurisdictional ground of this Grand Commandery, the fundamental doctrine regarding Lodges under Dispensation has been invariably followed. No right of a petitioner for Dispensation, in his relations to his old Lodge has been disturbed until the Charter to the new Body has been granted, and no power to sever his connection with the former, except by its dimit, has ever been conceded.

This Grand Body has followed the practice of these Grand Lodges, and in the most deliberate manner, *re-affirmed* the doctrine at its Annual Conclave, October 28, 1874, when the subject of the relations of a member of a Chartered Commandery was fully considered in the report of a Special Committee, who supported the rule of the Grand Lodges of Massachusetts and Rhode Island, which declares that the Grand Body cannot dimit a member of a Subordinate Body, and recommended the adoption of the following resolution as declaratory of the judgment of this Grand Commandery.

Resolved, That hereafter no person, already a member of a subordinate Commandery, shall be constituted a member of a new Commandery within this jurisdiction without first obtaining a regular dimit from the Commandery of which he is a member, and furnishing the Grand Recorder with a sufficient certificate thereof."

The report of the Committee was accepted and the resolution

submitted by them adopted, and thus the integrity of the law in this regard, if there had ever been a doubt concerning it, was made manifest.

When therefore, the R. E. Grand Commander, upon the presentation of the case of Washington Commandery, which required his official judgment, decided, that "neither the rights, privileges or obligations of its members were impaired or changed by reason of their being petitioners for, or active under the Dispensation granted to Temple Commandery, and that these were to be recognized until membership is terminated by formal dimit from Washington Commandery," he simply *re-affirmed* a principle, which besides commanding the assent of every authority in Masonic jurisprudence, is sanctioned by the practice of the Grand Lodges of Massachusetts and Rhode Island, and has been solemnly adjudicated by this Grand Commandery.

But the 'Code of Statutes and Digest of Templar Law,' enacted and published by the Grand Encampment of the United States, provides in Article 31, Title, 'Membership,' Section 2, Title, 'Petitioners for a new Commandery—Status of,' as follows:

1. "After a Dispensation is granted to form a new Commandery, the membership of the Knights who petitioned therefor remains in abeyance as to the older Commanderies to which they belonged when signing the petition. They become active members of the Commandery while under Dispensation, and when a Charter is granted, and the Commandery constituted, they continue to be members of the new Commandery and cease to be members of the old ones.

2. If the Dispensation should be withdrawn, or a Charter refused, the Knights who petitioned therefor resume their membership in their former Commanderies without petition or other ceremony.

3. When a Charter is granted and the Commandery constituted, the Recorder of the new Commandery must certify the fact to each Commandery to which any of the petitioning Knights belonged, and this will terminate their former affiliation."

Let us look, for a moment, at the obvious practical operation of this (so-called) Statute. *Abeyance*, is defined by Webster, as *suspension* or temporary *extinction*, so that under this Statute all the rights, privileges and obligations of the petitioning Knight in his original Commandery become suspended or tem-

porarily extinguished, *i. e.* from and after the date of the petition until the date of the Charter, and totally extinguished at the latter date, without any action on his part, or on the part of the Body to which his allegiance is due. Should he decide to aid in the formation of a new Commandery, he loses at once every right of membership which attached to the old one, but gains no right of membership in the new, since, as we have already seen, there can be no real membership therein, for the 'active membership' of the Statute can only mean the right to meet with his associates and make Templars. He can have no seat and no representation in the Grand Body, and can be elected to no office therein, however supereminent may be his qualifications. He cannot vote for officers or members, or upon the disposition of the funds or upon any other question in his own Commandery, nor prevent by the prerogative of the black-ball the admission of an unworthy aspirant for the order. It is doubtful if he could be tried for a Templar offence, as his relations with his Commandery have been temporarily extinguished, and no Statute even of the Grand Encampment has proceeded so far as to authorize Bodies under Dispensation to try delinquents. He cannot claim, *in articulo mortis*, nor can sorrowing survivors claim for him, the honors or solace of knightly burial, inasmuch as such sepulchral right, so far as his old Commandery is concerned, has departed with his other rights, and it is not known that a Commandery under Dispensation can bury any one except possibly itself. Should the term of the Dispensation be sufficiently short to allow him to become a member of the new Body under its Charter, his membership in the Mother Commandery, will have been severed by the pen-stroke of the Recorder, acting by virtue of the edict of a power which created neither the old nor the new Body. It will have been thus severed, although the Sir Knight may have been in arrears for dues to his old Commandery, or under charges of misconduct which, if proved, would banish him from the order and all its connections. In a word, all the rights and privileges, derived, it may be, from years of happy intercourse with his Brethren of the Chartered Commandery, are extinguished and exchanged for the simple privileges of voting upon the applications of candidates and perhaps assisting in conferring the orders in an association which

may or may not, at some future day, become a Commandery.

For a period of fifty-two years after the establishment of the Grand Encampment of the United States, no regulation or practice like that involved in this Statute, was ever heard of, either in the constitution, legislation or edicts of that Grand Body or in any opinion of its Grand Masters.

In 1868, however, the M. E. Grand Master, Sir Henry L. Palmer, reported in his address to the Grand Encampment, as among the decisions he had made, the following:

9th. "To the question, 'Can a Sir Knight be an active member and enjoy all the privileges and rights of two Commanderies, at the same time, one of them being under dispensation?' I answered, 'he can not, when a Templar signs a petition for a dispensation to form a new Commandery, if the dispensation be granted, his membership in his old Commandery remains in abeyance, and he is an active member of the new Commandery while under dispensation,' and if the dispensation be followed by a Charter to the new Commandery, he continues a member of that and ceases to be a member of the old one."

The M. E. Grand Master did not see fit to afford the Grand Encampment any light upon the origin of the doctrine contained in this novel and remarkable opinion, nor the reasons by which he had been led to it. Whether this opinion was evolved upon an actual case presented to him officially—whether such case arose in a Commandery under the immediate jurisdiction of the Grand Encampment, or in a subordinate of a State Grand Commandery, or whether the opinion was only the expression of his individual judgment in a moot case, the record does not disclose. As has been the custom, all the decisions and determinations of the Grand Master were reported upon by a Committee, and the 9th, with others, was approved in a lump, without a word of discussion or comment in the Grand Encampment.

At the Triennial Conclave in 1874, Grand Master Fellows, reaffirmed for substance the doctrine of Grand Master Palmer upon this subject, but coupled with it the following statement which seems utterly subversive of the opinion itself, viz:

"The signers of a petition for a *new* Commandery do not pay dues to the Commandery *to which they still actually belong*, nor does it pay dues for them to the Grand Encampment, but report should be made to the Grand Recorder of the fact, * * * A dispensation for a new Commandery

is only the authorization of the Grand Master for the petitioners to meet, perfect themselves in the work and drill, and confer the orders of Knighthood, with the understanding, of course, that should their action prove satisfactory, they receive a Charter and become a perfectly organized Commandery. The Commandery under Dispensation is not a Commandery, in the strict sense of the word, and possesses no other powers than those named in the Dispensation."

Our respectful suggestion is that this is a virtual abandonment of the doctrine contained in Grand Master Palmer's opinion.

At the same Triennial Conclave was presented the report of the Committee, who had been appointed to collect the decisions and opinions of the Grand Masters into a 'Code and Digest of Templar Law.' This Committee was composed of Eminent Sir Knights whose duty was well discharged, but who were in no wise responsible for the soundness of the decisions thus collected. Pending the consideration of the report of this Committee, the Grand Encampment, at the instance of the Eminent Sir Knight, Dr. Mackey, adopted a resolution:

"That the consideration of the report of the Committee on Digest of Templar Law, except so much as refers to Templar uniform, be postponed until the next Triennial Conclave, and that the Grand Recorder be directed to print the said report and refer it to the Grand Commanderies and Subordinate Commanderies of the Grand Encampment, *so that the Code of Statutes may be duly considered*, and the delegates to the next Conclave be prepared to vote understandingly thereon."

Had the wise and judicious resolution been permitted to stand, and the whole subject been presented to the several State Grand Commanderies, how much would have been saved and gained for this knightly fraternity. Unfortunately upon the next day of the session, the vote by which this resolution was passed, was reconsidered, the report of the Committee was taken up, and without a word of discussion or deliberation upon a single subject therein contained, except upon that of Templar uniform, adopted. It was thus, at the last moment of the Conclave, when its members were eager to commence their journeys homeward, and when, as we have been informed, a general *murmur of discontent with many of the provisions of the Code* ran through the hall, that this somewhat remarkable collection of opinions, decisions and edicts, was shaped and sent forth to the world, as the *Statutes of Templar Law*. It received per-

haps not the vote, but the silent assent of many members who confidently looked forward to the next ensuing Triennial gathering, for the correction of what then seemed to them its obvious errors and mistakes. This method and manner of adopting a system of law to bind a continent of Templar Knights were thus substituted for the due consideration contemplated by the thoughtful resolution of Dr. Mackey. It is unnecessary, although painful to add, that the fond hopes of those who at the last hour of 1874, reluctantly consented to the passage of the Code, have not yet been realized, but are postponed to some uncertain day in the future.

The rule therefore, enunciated in the 'Code of Statutes and Digest of Templar Law,' as enacted and promulgated by the Grand Encampment of the United States, is obviously, both in its terms and in its spirit, diametrically opposed to the decision of the R. E. Grand Commander. If they be wholly irreconcilable, which of them is of binding force upon this Grand Commandery and its subordinates? At the first glance, the answer to this question seems to be easy and obvious. It certainly appears, *prima facie*, that the authority of the Grand Encampment must prevail, inasmuch as that Body is supposed to be the supreme legislature, governing and controlling by its enactments, the entire Order of Templars in the United States. But a calm and careful inquiry into and consideration of the question, embracing the origin, formation and early history of that Body, and the original grant and subsequent exercise of its powers may lead to a totally different conclusion. Such a consideration may convince us that the power to make the Statute in question never lawfully vested in the Grand Encampment.

The R. E. Grand Commander, in his address, simply announced his decision, without setting forth the reasons upon which it was based, and your Committee have not been made aware of those reasons. But the attention of the Grand Commandery is earnestly requested to a presentation of reasons and considerations which may have led the Grand Commander to his conclusion.

In the first place, he may have considered that the relation of a member of a Subordinate Commandery is a personal one between himself and the Body—a relation established upon terms

and conditions prescribed by the Body and accepted by himself, the only condition derived from any external authority being that he must have been at the date of his admission, a regularly made Templar in good standing. His Commandery, in consideration of his agreement to observe its by-laws, and perhaps of the payment of a membership fee and of yearly dues, has conferred upon him all the rights and required of him the performance of all the duties necessarily appertaining to membership. On *his* part, the rights of membership became vested at the moment of his admission, and can only be divested, first, by his own wrong, that is to say, for unmasonic conduct or for failure to pay dues, and second, by his own free will, in asking for and receiving a dimit. If he be free of charges and clear of the books, he may sever the relation of membership at any moment, Freemasonry being a voluntary institution, but no exterior authority, whether of Grand Body or Grand Master can either sever or place it in abeyance. Indeed as so eminent an authority as our distinguished frater, Sir Theodore S. Parvin, Grand Recorder of the Grand Encampment of the United States, justly says, in reference to the status of membership:

"We hold that the individual rights of Masons in their membership are inviolable, except disturbed in a constitutional manner. Neither the Grand Master or Grand Lodge can change or modify it, cannot deprive him of it, much less take him from one Lodge to give him to another. Masonry is voluntary. A man goes in of his own accord and can dimit at pleasure (as too many do), can be suspended or expelled (as many more should be), but cannot be dropped out or *transferred by Dispensation*."

This emphatic language of the Eminent Grand Recorder, simply re-asserts the constant doctrine of the Mother Grand Lodge of England.

But it is farther submitted that if any authority exterior to the Subordinate Body of which the Sir Knight is a member, can by legislation or edict, sever or suspend the relation (a concession which we are by no means prepared to make) it can only be the Grand Body which created the subordinate and to which it is in direct allegiance, to wit, the Grand Commandery of the State under which its charter is held. Consequently a rule or regulation affecting this subject matter seems to be essentially *local* in its nature and application and if enacted at all, should be enacted by the local legislative Body.

Let us however pass for a moment to a consideration of the nature of the powers of a so called Supreme Masonic Body. It can hardly be doubted that the term supreme is to be understood, not indeed in any absolute, but in a very restricted sense. The Grand Encampment and the Grand Lodge, or any Grand Body holding the highest legislative and administrative functions over its rite, are necessarily of limited powers. They cannot change the order of Nature physically, cannot make or unmake chemical affinities, nor can they by legislation or edict change or ignore a historical truth, or alter the inherent and essential qualities of a subject in morals. The powers of such Grand Bodies are still further limited in a Masonic point of view. They do not hold and cannot exercise the full power and authority of Masonry. It is moreover obvious that their powers and functions, both of legislation and administration, are *derivative* and not inherent, or self-existing, for the simple reason that the Grand Body itself is artificial—a creation—the work of constructive minds—the effect of a cause or creating power.

Prior to 1717, the Four Lodges of London held within themselves all Masonic authority in that locality, and when, at that date, they convened for the purpose of establishing the Grand Lodge of England, they conferred upon it or rather yielded to it, all the powers in Masonry, which they possessed, with the exception of certain rights and privileges, which as has been claimed, were reserved to the immemorial Lodges. Apart from the powers thus conferred and until they were conferred, the Grand Lodge had no powers and no rights, as it had indeed no existence. All rights and powers were lawfully in the hands of the fraternity, and were by it transferred to or conferred upon the Grand Lodge then formed, which powers were thenceforth, in the interests of a better organization, to be exercised by that Body. This was an express grant without which the Grand Lodge could not have succeeded to the powers of the fraternity. The grant of the Four Lodges constituted the true and the only charter or muniment of title under which the Grand Lodge of England commenced and continued its administrative functions. The grant of the fraternity of the country, State or Territory, has been the only Charter for all subsequent Grand Lodges. Thus we see how in our own country, under what is called the

American system of Grand Lodge sovereignty, a majority of the Lodges, being not less than three in number, of a State or Territory, holding in themselves all Masonic power and sovereignty within the lines of political jurisdiction, assemble and form themselves into a Grand Lodge, giving and granting to it all powers, except such as by immemorial law and custom, or in express terms, they reserve to themselves. It seems to us that there can be no greater heresy than the notion that a Grand Lodge possesses the powers of a self-created entity. It simply possesses and exercises such power as has been granted *de facto*, whatever may be the form of the grant. However great in the course of time may be the expansion of the exercise of such power, the power itself can never outgrow or exceed the authority which created it any more than the whole can exceed the sum of its parts. It should follow, then, that such power, being a grant of the constituted Lodges and Brethren, to be exercised in their behalf and for their benefit for the purposes of organization and administration, is to be exercised within the limits of the grant, and that any power exercised outside of such limits becomes a usurpation.

The Grand Encampment of the United States, as a governing Masonic Body, is almost an anomaly, having as its only parallel, in the history of Masonic organizations, the General Grand Chapter. A reference to the formation of the Grand Encampment and its early constitutional history may aid in the solution of the nature and extent of its lawful powers over the State Grand Commanderies. It was formed in the City of New York in June, 1816, by delegates from St. John's Encampment, Providence; Boston Encampment, Boston; Ancient Encampment, New York; Temple Encampment; Montgomery Encampment, Stillwater; St. Paul's Encampment, Newburyport; Newport Encampment, Newport; and Darius Council, Portland. It was claimed by Past Grand Commander Hubbard, in his address to the Grand Commandery of Ohio in 1857, that it is an error to say that the Grand Encampment was created and exercises powers delegated by State Grand Commanderies. With great deference, it is submitted that the facts conspire to show the error to be entirely on the other side. The delegates *were* chosen, both in Massachusetts and Rhode Island and in New York,

by their respective Grand Commanderies, and they represented the latter by virtue of their delegation, and the purpose of their appointment was distinctly set forth, their action as delegates to the convention being afterwards officially reported to their Principals. Of the constituents who formed that Grand Body, it will be seen that St. John's, Boston, Newburyport, Newport, and Darius Council, being five-eighths of the whole, were Bodies then under the jurisdiction of the Grand Encampment of Massachusetts and Rhode Island, the District of Maine then being a part of Massachusetts. Beside our own Grand Body, then as now, the governing Templar Body in these two States, was the Grand Encampment of New York, which sent its formal representative and through its subordinates became a formative constituent. The Grand Encampment of New York was constituted by the Sovereign Grand Consistory, A. and A. Rite of the United States, its territories and dependencies sitting in New York June 18, 1814, and its Constitution, asserting jurisdiction in the State and in "any State or Territory wherein there is not a Grand Encampment regularly established," was adopted June 25, 1814. At a Special Conclave of the Body, held June 4, 1816, as the record declares, "the Grand Master announced that this special meeting had been called to consider the propriety of deputing a delegate or proxy, to represent this Grand Encampment in the convention of representatives from the Grand Encampments of several States in the Union, to be held at Philadelphia on Tuesday next. Upon motion, duly made and recorded, it was unanimously resolved, that *SIR THOMAS LOWNDES be delegated from this Grand Encampment to said convention, with power to propose the acknowledgment of a General Grand Encampment for the United States, should one be formed by said convention, *provided, that the said General Grand Encampment recognizes this Grand Encampment in its present powers*, and as supreme over the State of New York."

The convention to form the General Grand Encampment met, however, in the City of New York, and accomplished its purpose. As soon as its Constitution was adopted and promulgated, the Grand Encampment of New York, at a Special Conclave

* Sir Thomas Lowndes was Deputy Grand Master.

held December 11, 1820, adopted a new Constitution, which had been revised and made to conform to that of the General Grand Encampment. The first section of this revised Constitution is as follows:

"This Grand Encampment, being the highest source of legitimate Knighthood in the State of New York, has of right, and claims the *government and superintendence* of all Encampments of Knights of the Red Cross, Knights Templars and Knights of Malta within its jurisdiction. It therefore may grant Warrants and Dispensations for holding Councils and Encampments of the above-named Orders, and, when expedient, revoke and annul the same. It may make laws, pass regulations, and, at pleasure, repeal, amend and alter the same. It may censure, suspend and expel Councils, Encampments or members for violation and disobedience of its laws, regulations and rules."

By a comparison of this Constitution, adopted immediately *after* the Constitution of the Grand Encampment of the United States, with the prior Constitution adopted *before* that of the Grand Encampment, we find that the revised New York Constitution, instead of a general declaration of the powers and functions of the State Grand Encampment, set forth a much larger and more definitive statement. Here we have conclusive evidence, in the contemporaneous construction of these instruments by the founders, who must be presumed to know what they did and what they intended. It is thus apparent that De Witt Clinton and his associates, the intelligent Sir Knights of the New York Encampment, themselves among the founders of the General Grand Encampment, did not concede any powers of local regulation to the latter Body, or admit that it had any claim to the exercise of such powers, which they expressly declared in their own revised Constitution were vested in the State Grand Body.

At the time of the formation of the Grand Encampment of the United States, there were, within the territory of the Union, but three State Grand Encampments, viz., those of Massachusetts and Rhode Island, New York and Pennsylvania, the latter of which, although organized in 1814, maintained from the first a struggling and almost doubtful existence, which shortly afterward ceased entirely. But the State Grand Bodies of New York and of this jurisdiction were in vigorous health and maintained full and beneficent sway, with all the attributes of sov-

ereignty within their respective territories. Now, although the purpose of the founders of the National Grand Encampment does not distinctly appear in the records of that Body, or by any declaration of its members, it may be presumed to have been three-fold: 1st, to secure throughout the country a uniform system of work and ritual; 2d, to enhance the prestige of the Institution by giving a national character and influence to a system which, up to that date, had been localized in but three States of the Union; and, 3d, to extend a special supervision and authority over Commanderies in States or Territories where no Grand Body then existed or would probably exist for many years. If such three-fold purpose were in the minds of the founders, the Grand Body to be founded would require no grant of power beyond that necessary to execute the purpose, and as the grant of power as shown in the Constitution which they adopted exactly corresponds to the purpose or intent designated, it is a fair inference that the founders, who represented all the authority of Templarism, actual and potential, would not grant any more. New York, therefore, by the express declarations and recitals of its own revised Constitution, itself a contemporaneous exposition of its own intent and the intent of the framers of the Constitution of the Grand Encampment, maintained all the local authority and function which it originally possessed. No such local authority for the Grand Encampment was set up, or, as we may well believe, dreamed of, by the founders of that National Grand Body. The claim of the Grand Encampment to exercise such authority was an after-thought, the evolution of which required the lapse of more than half a century.

Having seen the extent of the powers conceded to the new Body by our Brethren of the New York Grand Encampment, let us look back, for a moment, at our own action in the premises.

At a Convention of Knights Templars held in Providence, May 6, 1805, it was determined to form a Grand Encampment in the State, and a Committee was appointed to report a draft of Constitution. At an adjourned meeting, held on the following week, the Committee reported their draft, which was adopted, and the instrument entitled the "Constitution of the Grand Encampment of Rhode Island and jurisdiction there-

unto belonging." Under this Constitution the Body was organized, and commenced the performance of its functions. Although it was formed for the purpose of supreme and exclusive Templar rule over the territory, its Constitution set forth no express declaration of rights and powers. Our Fathers, perhaps, considered any formal declaration superfluous, as there was then no authority in America which could challenge their sway. They, therefore, while asserting some few specific powers necessary to their subordinates in their transfer from an autonomous to a constitutional condition, contented themselves, as to general powers, with the simple statement contained in the first clause of Art. 4: "The Grand Encampment *shall take cognizance of and preside over* all Encampments of Knights Templars," etc.

At the annual assembly held in Masonic Hall, Providence, March 3, 1806, the style or title of the Body was changed to "The United States Grand Encampment," and at an assembly in Boston, May 29, 1806, a revised draft of the Constitution, containing a rather more expansive statement of authority, but with no substantive additions, was adopted.

At the assembly in May, 1816, the title was changed, by expunging the words "*United States*," and some minor amendments of the instrument were effected. At this assembly delegates were appointed "to meet and confer with any or all other Grand Encampments that are now established within the United States, (this could only intend those of New York and Pennsylvania,) or with such delegates as may be appointed by any or all of the said Grand Encampments, upon the subject of a general union of all the Encampments of the United States under one head and general form of government, and that the said delegates be, and they are hereby, invested with full power and authority to enter into such engagements and stipulations, and make such arrangements upon the said subject as they may deem expedient and proper to promote the honor and interests of the Orders of Knighthood."

The delegates reported their action at an 'Annual Communication' of the Grand Encampment of the United States, (although the words '*United States*' had been previously expunged they were still used in the record,) at Providence, June 25, 1817.

They had met at Philadelphia, with delegates from Philadelphia, Baltimore, Wilmington and New York, but, after several days of deliberation, found it impossible to agree "in the mode of array and system of work." They found the delegates from Philadelphia intractable, avowing themselves to be in subordination to the Grand Lodge of Pennsylvania, and objecting to the degrees of Mark Master and Most Excellent Master "as unnecessary and not belonging to the system of Masonry." In consequence of these disagreements the Convention at Philadelphia was dissolved, and a portion of the delegates, viz., those from New York and Massachusetts and Rhode Island, repaired to the city of New York, where, in the absence of the recalcitrant Knights of Philadelphia, Baltimore and Wilmington, the representatives of the only two active State Grand Encampments, succeeded, as we have already seen, in establishing the Grand Encampment of the United States and adopting a Constitution therefor. The discussions and consequent dissensions at Philadelphia tend strongly to show that the main purpose of all the delegates was the security of uniformity in work. Many of them, however, were unwilling to yield individual prejudices and local practices in exchange for the seemingly doubtful advantages of a superintending National Grand Body.

The delegates from Massachusetts and Rhode Island reported to this Grand Body at the (then called) Annual Communication June 25, 1817, when the following resolution was passed:

"*Resolved*, That the Grand Encampment approve of the doings of their delegates and of the proceedings of the Convention holden in the city of New York, and adopt the General Constitution for their future government; and the Grand Master, the Deputy Grand Master, and Grand Recorder, are authorized and empowered to revise the local Constitution of this Grand Encampment and render it conformable to the said General Grand Constitution."

This Committee did not accomplish the work of revision and was discharged. Sir Thomas S. Webb, having died in the interim, a new Committee of Revision, consisting of Sir Henry Fowle, Sir Robert Lash, and Sir John J. Loring, all Past Grand Masters of this Body, was entrusted with the duty. The Constitution, by them revised, was presented and adopted June 20, 1823, and, although changing the title to the form since in use,

contains no reference to the Grand Encampment of the United States, and no declaration of its own powers varying from the original draft. When it is remembered that among the delegates representing this Grand Body were Sirs Thomas S. Webb and John Carlisle of Providence, and Sirs Henry Fowle and Paul Dean of Boston, always leaders and devoted to its rights and interests, it is almost inconceivable to Knights of Massachusetts and Rhode Island that these men of our heroic age would have granted to a National Organization any power or authority subversive of our vested local rights or those of our subordinates. Certainly they would have done no such thing by implication. They were plain, honest and straight-forward men and Masons, and had they intended to make any such concession of authority, its expression, both in the National Constitution and our own, and in the records of each Body, would have been so plain, certain and unequivocal that no possible doubt of their intent could have remained.

As has already been observed, neither in the original Constitution of our own Grand Body, nor in any subsequent revision until December 12, 1845, was there an express declaration, in detail, of its powers. It seems to have been assumed that such powers as were necessary for organization and general superintendence had been conceded, and that all other powers were reserved to the subordinate Bodies. At the latter date, however, after the Grand Encampment had been in existence nearly thirty years, with no assertion or claim of authority over the State Grand Bodies as to the regulation of their local affairs, a revised Constitution of this Grand Body (the draft of Sir Charles W. Moore, no mean judge of the true relation of the State to the National Organization,) was adopted, which declares:

Sec. 1st, that "This Grand Encampment *has of right, and claims the government and superintendence* of all Encampments of Knights Templars and the appendant orders within its jurisdiction. It may grant warrants and dispensations for holding Councils and Encampments of the above-named Orders, and when expedient, revoke and annul the same. It may make laws, pass regulations, and at pleasure, repeal, amend, and alter the same. It may censure, suspend or erase Councils and Encampments or any of the members of the same for violation and disobedience of its laws, rules or regulations."

Our Constitution, to-day, in its latest revision, asserts these specific rights and powers of this Grand Body, and in addition, as a *general* power, declares that it "has supreme authority, throughout this jurisdiction, in all matters pertaining to Templar Masonry, subject only to the ancient landmarks of the Order and the Grand Encampment of the United States."

Can any further argument be needed to show that by the acts of the framers of the Constitution of the Grand Encampment, by the express declarations of the delegates from New York, and Massachusetts and Rhode Island, by the solemn expressions of the Grand Body of New York and of our own, and by the unvarying practice of fifty years in the exercise of constitutional powers, there was a clear and unequivocal understanding between the State and National Grand Bodies, that no right of local regulation and legislation was lost by the former through the establishment of the latter? Any other construction of relative powers and obligations renders the establishment of State Grand Bodies an expensive and utterly needless extravagance. They simply stand as shadows of the National Grand Body, having a mere name, to live, but in reality *dead*, with the 'word of promise to the ear, which is broken to the hope.' A more useless and senseless piece of lumber than a State Grand Commandery can hardly be imagined, if it is to assume to exist under such conditions and restrictions of its authority.

Should the question be asked why has the Constitution of this Grand Body, in its several drafts, neglected to make specific provisions concerning the status of membership in the subordinate Commanderies, the answer is not difficult. It can hardly be pretended that our omission to specify status of membership in subordinates, over which, by a general provision, we establish general superintendence and control, shows that we did not intend to maintain superintendence and control over that subject-matter. But the absence of such specific provision in the Constitution of the Grand Encampment, and the absence of general powers which embrace it, taken together, should be a conclusive argument against any pretence or assumption of such right in the National Organization.

The subject of status of membership, with many other similar subjects which concern the local rights and interests of the

subordinate constituents of this Grand Body, is necessarily comprehended in its general power of government and superintendence of the Bodies of its creation. This government and superintendence must hold the subordinates, not only to the observance of the provisions of the Constitution, but to those of the common law of Masonry and to the ancient regulations and established usages of the institution. But upon this subject-matter our Grand Body has expressed a deliberate judgment. At its assembly October 11, 1844, a Committee which had been previously appointed to consider the subject of membership in subordinate Encampments, submitted the following report, which was adopted:

"That in their opinion it is inexpedient for this Grand Encampment to recommend to the subordinate Encampments the adoption of a uniform regulation with regard to membership in their several institutions. Under the existing regulations of this Grand Encampment, no subordinate institution has the power to admit to membership any person who has not duly and legally received the several degrees recognized by the Constitution and edicts of the General Grand Encampment of the United States of America; and as the power is granted to the subordinate institutions to confer the orders of Knighthood on all such Royal Arch Masons as shall make application to them therefor and they shall find to be worthy and well qualified, it is difficult to perceive any good reason to justify restricting them with reference to the making of such regulations as each institution may deem advisable in relation to membership in the several Encampments under this jurisdiction. It is apparent that regulations which would have a salutary effect in some institutions, under some circumstances, might, in other institutions and under different circumstances, have an injurious tendency and effect."

So averse to any central legislation and so devoted to the freedom of its subordinates upon such questions has been the action of this Grand Commandery.

Yet, although hesitating, for the reason assigned, to enact regulations concerning membership in its subordinates, this Grand Body has decided, in the most pronounced manner, the very question in issue. The decision was rendered in the notable case of a Sir Knight of great prominence in this jurisdiction, who had become one of a number of Sir Knights working under a Dispensation granted to him and others to form a new Body. That distinguished Sir Knight presented a memorial, requesting the decision of this Grand Body as to his rights and privi-

leges of membership in his old Commandery, which had been denied to him after he became one of the Sir Knights working under the Dispensation. The subject having been discussed and duly considered, it was adjudged that the memorialist was still a member of the former Body and entitled to all the privileges of membership.

It is therefore evident that neither the Grand Encampment of New York or of Massachusetts and Rhode Island, who were then sovereigns possessing all the rights and authority of Templar Masonry in this country, except over the territory covered by the Grand Encampment of Pennsylvania, and that of a few other local Bodies, and who were the constituents forming the Grand Encampment of the United States, conceded to the latter any power beyond that which in express terms was stated or declared. Let us, then, inspect the Constitution of the Grand Encampment, and revert to the practical interpretation of it up to the time of the passage of the 'Code of Statutes.'

The first Constitution was 'formed, adopted and ratified,' in the language of the record, at the Convention in Masons' Hall, held in the City of New York, June 20 and 21, 1816. In this Constitution, Section 4, Article 2, provided that "the several State Grand Encampments, *subject to the provisions of this Constitution*, shall have *the sole government and superintendence* of the several Councils of Knights of the Red Cross, Knights Templars and Knights of Malta, within their respective jurisdictions, to assign their limits and settle controversies that may happen between them; and shall have power, under their respective seals and the sign manual of their respective principal Grand Officers, attested by their respective Secretaries, to constitute new Councils and Encampments of the above-mentioned Orders within their respective jurisdictions." Here is a declaration of the powers of the State Grand Bodies by the men who formed the National Grand Encampment. Can there be a doubt that this constitutional declaration leaves the rights of the States exactly where it found them, with nothing added, nothing taken away? It is as though the Fathers had said to us: "You may do nothing hereafter which this Constitution lays down to be done by us, but you are at liberty to do anything else, according to your old customs and usages." This is a full, explicit and satisfactory enunciation of State rights in this behalf, since the

"sole government and superintendence" within their respective jurisdictions covers the entire ground of local regulation. Although this 'sole government and superintendence' is declared to be subject "to the provisions of this Constitution," there are no provisions therein which impair, or even relate, to the State authority in this regard.

At the ninth Triennial Session, in 1844, and at the eleventh Triennial, in 1850, Section 4 of the original Constitution was re-enacted and the rights of the State Grand Bodies were again clinched. Meanwhile, in 1847, the Grand Encampment, at the instance of the ever-vigilant Sir Charles W. Moore, who presented the report of the Committee on a Communication from the Grand Encampment of Ohio, declared its opinion "that this General Grand Encampment cannot, *with propriety or constitutionally*, interfere with the jurisdiction of any subordinate Encampment in any State or Territory where there is a Grand Encampment."* Although the subject to which this declaration of the limitation of the powers of the Grand Encampment is not precisely the same as the subject now at issue, the subjects are analogous and the principle of the limitation applies alike to each as a matter entirely of local concern and control.

In the amended Constitution of the Session of 1850, it may here be collaterally stated, occurs a new provision, that "no person shall hereafter be eligible to any office in the General or any State Grand Encampment, unless he shall at the time be a member of some subordinate Encampment." Under this amendment it may be a matter of curious interest, although of no special importance in this discussion, to ascertain whether the Code of Statutes in respect to the status of membership in a Body under Dispensation, which Past Grand Master Fellows declares to be no Commandery, will allow a petitioner for Dispensation to become an Officer.

In the constitutional revision of 1853, Section 4 remained without change. In 1856 the Constitution was again submitted to the process of amendment, as the members of the Grand Encampment seemed unwilling to let a Session slip by without indulgence in this apparently favorite pastime. At this Session a new arrangement of Titles and Sections was made. Among the powers assigned in the revision of this date to the State

* This opinion was re-affirmed Sept. 17, 1850.

Grand Commanderies is the power to adopt "such rules and edicts *subordinate to the Constitution of the Grand Encampment of the United States*, as may be necessary for the good of the order. The specific powers, as laid down in all preceding forms of the Constitution, were *re-asserted*, with the addition of a general authority "to consider and do all matters and things appertaining to the good, well-being, and perpetuation of Templar Masonry, but always subordinate to the Grand Encampment of the United States." It is perhaps needless to observe, that, like all previous drafts of the Constitution, this amended draft of 1856 makes no claim of right of the Grand Encampment over the status of membership in a subordinate of a State Grand Commandery, according to any reasonable interpretation of language. The revision of 1856 did, however, in the judgment of many wise and discreet Templars, invade the domain of State rights by its change of the nomenclature of the Grand Body, of the State Grand Bodies and their subordinates, and of the titles of Officers. Indeed, this change was regarded by the Grand Encampment of Ohio and our own Grand Body, as an unwarrantable innovation, of doubtful binding force and obligation, and they hesitated long to adopt it. The former Body constituted three of its most distinguished members as a Committee to meet a similar Committee appointed by the Grand master of Templars, for the purpose of reconciling the differences between the National and the Ohio Grand Bodies, which had been engendered by the change of nomenclature. This joint Committee assembled in Washington and was presided over by M. E. Sir Benjamin B. French, then Grand Master. After mature and pains-taking deliberation, in which the respective powers and authority of the Grand Encampment and of the State Grand Bodies were amply considered, the Committee adopted, among others, the following resolution:

"Resolved, as the unanimous opinion of this Joint Committee, that the *sole and entire jurisdiction and government* of the Orders of Knighthood within the civil jurisdiction of the United States and the Territories and Districts thereof belong to and are properly exercised by the Grand Encampment of the United States, until State, District, or Territorial Grand Encampments or Commanderies shall have been duly established by authority of the said Grand Encampment; and *that thenceforward such jurisdiction and government within the designated geographical limits, devolve, in all their entirety, upon such local Grand Encampments or equivalent Bodies, and*

are properly exercised by them, subject to the provisions of the Constitution of the National Grand Encampment; and that no change in the Constitution of the Grand Encampment of the United States, interfering with the powers of State Grand Encampments or Commanderies, or *adding to the powers of the National Grand Body*, ought to be made until such change shall have been approved by a majority of the State Grand Bodies."

The resolutions of this distinguished joint Committee were duly referred by Grand Master French at the Triennial Session of 1865 to a Special Committee of the Grand Encampment, who reported that the resolution above cited is "but a reiteration of the character, jurisdiction and duties of the Grand Encampment of the United States and the Grand Commanderies of the States." From this clear and comprehensive exposition of the relative powers and duties of the Grand and State Bodies, there was no dissent. What, then, is this declaration of the Grand Encampment of the United States but a solemn adjudication, in a case pending, of the local rights of the State Grand Bodies and their subordinates?

It was in reference to the Constitutional amendment of 1856 by which the change of nomenclature was effected, that our own illustrious Past Grand Master, Sir William L. Gardner, then Grand Master of Templars in the United States, in his address to the Grand Encampment at its Triennial Session at Baltimore, uttered the following memorable words of warning:

"The dissensions which were sown in 1856, when the Grand Encampment met at Hartford, Connecticut, and made radical changes in the organic law, and in the system of Templar Masonry, have disappeared, I trust, forever. While the memory of this antagonism is fresh, let us not forget the lesson which it teaches, that there is a limit to the forbearance of the Grand Commanderies and the Templars of the United States, beyond which it is not safe for the Grand Encampment to trespass. Although the State Grand Commanderies and their subordinates are true and loyal to the National Grand Body, and devoted in their attachment to it; although each and all yield a ready and willing obedience to its commands, and recognize the Grand Encampment as the supreme Body of Knights Templar to which they owe allegiance and fealty, they will not passively submit to frequent constitutional revisions prompted solely by novelty or caprice."

Can the sentiment of this Grand Commandery, at this hour, be more truly set forth than in these words of our eminent Past Grand Master? But if our distinguished frater was thus grave

in his warning to the Grand Encampment against Constitutional innovations, what might he not have said in respect to the submission of State Grand Bodies to codes, statutes, edicts, *et id omne genus* of legislation, outside of the Constitution?

The declaration of the revised Constitution respecting the original Section 4, was repeated in the Constitution of 1871.

At the Triennial Session, in 1874, a special Committee of three members was appointed "to re-arrange and correct the *phraseology* of the Constitution without authority to change the substance or meaning." This Committee reported another revised draft, which, although no action of the Grand Encampment thereon appears in the printed record, seems to have been considered as adopted, it having been printed in the Appendix to the Proceedings of 1877, and apparently now standing as the Constitution. Although no change of substance or meaning was authorized in this revision, yet a change of language or form was made in respect to State Grand Commanderies, by the addition, in Section 33, (3) of the following words, viz., they (the State Grand Commanderies) shall "have power to adopt such Rules and Edicts, subordinate to the Constitution and *Statutes* of the Grand Encampment of the United States, as may be necessary for the good of the Order." Up to this date, in all the various forms which the Constitution triennially assumed, the State Grand Commanderies were declared subordinate only to the *Constitution* of the Grand Encampment, but this latest revision pronounces them subordinate to its *Statutes*. Does this language change the substance or meaning of the Constitution? If so, the change is clearly illegal, as the Committee were expressly forbidden to change *substance or meaning*, and were only intrusted with *phraseology*. If this last revision had been adopted or passed upon by the Grand Encampment, of which there is no evidence in the printed record, it could not have affected, in *substance or meaning*, the body of the Constitution as it stood prior to 1874. Nothing could have been added and nothing taken away.

In respect to the authority of the Grand Encampment to legislate for the welfare of the Institution of Templar Masonry, no doubt can reasonably be entertained. The Constitution, no matter how frequent may be its revision, can never set forth in detail or prescribe for every case which may fall within the gen-

eral principles which it enunciates. Its declaration of rights and powers must necessarily be general, with certain specific assertions or restrictions. It may, therefore, be needful to adopt rules or prescribe forms of action in cases which the language of the Constitution does not specify. But nothing can be clearer or more imperative than that such legislation, whether assuming the form of a Code of Statutes, or of an Edict, must be in perfect harmony with the Constitution and wholly within its lines. If the Statute or Edict be in conformity to the Constitution, it can obviously subvert no right or privilege of a State. If it do not thus conform, it is an enactment *ultra vires*, and of no binding force. No State Grand Body can reasonably object or hesitate to conform to the requisitions of any legislation within the limits of the Constitution. No Grand Commandery of a State can, on the other hand, unless blind to its own honor and the rights of its subordinates, submit to any legislation outside of such limits.

From this brief review, it appears that the Constitution of the Grand Encampment, in its latest as in its earliest, and in every intermediate form, while asserting its own powers, asserts also those of the State Grand Bodies. Its general authority over the Rite is maintained, while the local and exclusive authority of the States and their subordinates are in no manner impaired.

The relations of the Grand Encampment to the several State Grand Commanderies are, in some points, analogous to those of the Federal Government and the States of the Union. The rights which were not granted to the National Government are reserved to the States or to the people. Under our National Constitution, Congress, as the legislative branch of the Government, while possessing large general power and control over the National domain, and special and exclusive control over the territories or lands in which no State government has been organized, cannot by law prescribe the penalty for petty larceny in Massachusetts, or dictate the terms upon which a divorce may be procured in Rhode Island. These are local matters and are out of the sphere of National legislation. They are just as local as the selection of a Governor or Chief Justice of a State, with which the Federal Government, as such, can have no concern. When we consider, however, the *remedy* for a usurpation

or an unconstitutional act of the National Legislature, we find that the Constitution itself has created a tribunal, distinct from Congress or the Executive Department, a tribunal exercising judicial functions alone, for the peaceful determination of all questions of Constitutionality. This tribunal affirms every act constitutionally within the purview of Congress to enact, and annuls or sets aside as void any legislation which may infringe upon the rights of a State or its people. In regard to the remedy, therefore, the analogy fails. The Grand Encampment of the United States not only exercises legislative and executive, but judicial functions. It passes upon the legal quality of its own acts, determining for itself and without appeal, the authority and constitutionality of its own legislation. The only method, then, by which a State Grand Body can peacefully maintain its constitutional rights against what is thought to be an infringement of them, would seem to be a firm but respectful declaration or affirmation of such rights, coupled with an earnest and fraternal remonstrance and protest addressed to the intelligence and conscience of the Grand Encampment. If we choose to be so recreant to our trust as to ignore the wrongs of our own organization and all the members under it, we should at least consider the rights and interests of our Sister State Grand Bodies, and, for their sake, decline submission to any act in derogation of rights which are of equal value to them and to us.

If it shall be urged that, however unconstitutional or erroneous the Statute in question may be, we are, nevertheless, bound by it, because our representatives were present at the Session at which it was adopted, the answer is: 1st, that the National Grand Body has already plainly sanctioned the doctrine that no change, even of its Constitution, which shall interfere with the rights and powers of State Grand Commanderies, should be made until such change shall have been approved by a majority of the State Grand Bodies. 2d, our representatives were chosen *diverso intuitu*—the subject-matter of the Statute was not then pending, and no notice of such pendency was given. 3d, that, in point of fact, the passage of the Statute was unknown for a long time afterward, and has only recently been called to our attention. 4th, that the Constitutional rights of a State Grand Body are not to be taken away by the voice of a majority.

To illustrate this part of the subject, let us suppose that the Congress of the United States has passed an act which is claimed to be subversive of some right of Massachusetts and Rhode Island, or their people, and that all the Senators and Representatives of both these States voted for that act, when the question of the constitutionality of the act is presented to the Supreme Court of the United States, what would the Chief Justice of that august tribunal say to an argument of counsel that the act, whether within the Constitution or not, is binding upon the States of Massachusetts and Rhode Island, because their representatives in Congress voted for it?

Neither State nor Masonic Constitutional rights are to be forfeited by estoppel.

The Grand Commandery of Massachusetts and Rhode Island is now and ever has been loyal and obedient to the Constitution of the Grand Encampment, as it has been able to understand that Constitution, and to all legal legislation thereunder. Twice, indeed, has its loyalty been strained to a dangerous tension. But the Constitution and legislation of the Grand Encampment are not the only sources of Masonic authority to which our allegiance is to be paid. As Masons, while recognizing the Orders of Knighthood as a part of the American Masonic system, we can owe no higher allegiance than that which is due to the Landmarks and Ancient Regulations of Masonry and to the law and practice of the Grand Lodges of the States in which we live. In the absence of a common and impartial tribunal to which questions of constitutional right may be committed for adjudication, we must, at least, in the first instance, judge for ourselves. Others may differ from us in their estimate of a Statute which is obnoxious to us, and may possibly regard it as a wise and wholesome regulation. But were this regulation of the Grand Encampment, which, as we have submitted, is an enactment *ultra vires*, the wisest which the wit of man could devise, it is not to be thrust upon us. Let it be distinctly understood that we are not parties to a controversy of our own seeking, or, indeed, parties in any sense, but Brethren at one with all the members of the Grand Encampment, one in our interests, hopes and aspirations for the highest good of the Institution and of the Grand Body under which it is organized. We are Brethren sailing the same voyage, over the same seas.

If we say to the Grand Encampment of the United States that we, their Brethren of Massachusetts and Rhode Island, have decided a local question in conformity to local law, and that in such decision we are not so much antagonistic to them as their Statute is antagonistic to their Constitution, and fraternally invite them, at the next Triennial Session, to deliberate upon the subject-matter of this Statute and relegate it, as a matter of local regulation, to the State Grand Commanderies, it surely cannot be claimed that in so doing we are wanting in our allegiance to the National Grand Body. May we not rather presume and expect that, under the inspiration of its cool-headed and self-poised Grand Master, our own distinguished associate and Past Grand Commander, that Grand Body will readily retrace its steps and repeal the obnoxious Statute.

If the R. E. Grand Commander based the decision which has thus passed under review, upon the facts and considerations thus imperfectly set forth, your Committee are unable to pronounce it erroneous. They, therefore, respectfully recommend that this Grand Commandery sustain the decision as in conformity with its own law and practice, and with the law and practice of the Grand Lodges of the States occupying this territorial jurisdiction, and that affirming the allegiance of this Body and its subordinates to the Constitution and all the legal requisitions of the Grand Encampment of the United States, our representatives, at its next Triennial Session, be instructed to use all lawful means to secure the repeal of the Statute in question.

Respectfully and fraternally submitted,

TRACY P. CHEEVER, }
SAMUEL C. LAWRENCE, } Committee.

Received, ordered to be printed, and distributed to the members of the Grand Commandery previous to taking final action in May, 1882.

ALFRED F. CHAPMAN,
Grand Recorder.

MINORITY REPORT.

To the Grand Commandery of Massachusetts and Rhode Island:

The undersigned, one of the committee appointed at the last Semi-annual Conclave upon so much of the R. E. Grand Commander's address "as relates to Decisions and Dispensations," dissenting from the conclusion maintained by the majority of the committee, begs leave to present the following as a minority report:

As appears by the address of the R. E. Grand Commander, it was decided "that neither the rights, privileges, or obligations of any member or officer of Washington Commandery were impaired or changed by reason of their being petitioners for or active under the Dispensation granted to Temple Commandery, and that these were to be recognized until membership is terminated by formal dimit from Washington Commandery."

This decision is to the effect that a member of a Chartered Commandery can exercise all the rights of membership in such Chartered Commandery and at the same time exercise all rights in a Commandery under Dispensation, for which Dispensation he was a petitioner and under which he is an active member.

To this proposition I respectfully dissent, both upon the ground that it is against the Templar law appertaining thereto, and also upon the ground that it is opposed to good policy.

That the question involved in the decision is decided, and decided adversely to the ruling made by the R. E. Grand Commander, by the Code of Statutes of the Grand Encampment of the United States, cannot, and doubtless will not, be controverted. The provision of the Code of Statutes is: "After a Dispensation is granted to form a new Commandery, the mem-

bership of the Knights who petitioned therefor remains in abeyance as to the older Commandery to which they belonged when signing the petition; they become active members of the Commandery while under Dispensation, and when a Charter is granted and the Commandery constituted they continue to be members of the new Commandery and cease to be members of the old."

This being the provision of the Code of Statutes of the Grand Encampment, is this Grand Body and its officers and members bound thereby?

In the first place, there is no provision in the Grand Constitution, or anything in the action or legislation of this Grand Commandery, defining the relationship of a member in a Commandery U. D. to the Commandery of which he was a member when signing a petition for a Dispensation, nor is anything to be found in contravention of the Statute above referred to. The resolution passed October 28, 1874, upon examination, will prove no *exception* to the last preceding statement, nor will the action in the Grand Encampment of Massachusetts and Rhode Island, as it was then styled, of February, A. D. 1860. That action was merely a ruling by the then "Grand Master," and although such ruling was in Grand Body, no action seems to have been taken other than his ruling.

In the second place, there is no landmark or other insurmountable barrier to prevent legislation upon the subject-matter of the Statute, whether the right to legislate, the jurisdiction, is in the Grand Encampment or in this Grand Body. It then follows that the sole question is: "Had or has the Grand Encampment of the United States exclusive jurisdiction to make this or like regulation, or is such jurisdiction in the State Grand Commanderies?"

The first inquiry now is, to see if such jurisdiction is claimed by the Grand Encampment, or, rather, whether such legislation is within the powers of the Grand Encampment, as defined in its Constitution. That Constitution, in defining its "powers and duties," says: "It shall adopt such rules and edicts as may be necessary for the good of the order." Article 1, Sec. 9 (3), and sub-division (9) of same section reads: "And, finally, it shall consider and do all matters and things appertaining to the good, well-being, and perpetuation of Templar Masonry."

The powers here claimed are sufficiently broad to authorize the Grand Encampment to rightfully and lawfully enact the Statute hereinbefore quoted. But this is not all. That same Constitution, in defining the "powers and duties" of Grand Commanderies, provides that "It (Grand Commanderies) shall have power to adopt such rules and edicts subordinate to the Constitution and Statutes of the Grand Encampment of the United States as may be necessary for the good of the order."—Article 2, Sec. 33 (3).

These extracts show that the Grand Encampment has exclusive jurisdiction over this subject whenever it acts, and, having legislated, the conditions giving such exclusive jurisdiction now exist.

Should, however, it be suggested that the Grand Encampment had no right to assume or legislate to itself such jurisdiction, or to take it from the State Grand Commanderies, wherein it had before rested, then answer is made that this Grand Commandery, in its Constitution defining its own powers, makes all its powers subject "only to the ancient landmarks of the order and the Grand Encampment of the United States."—Constitution Grand Commandery, Article 1, Sec. 3.

We are thus compelled to the conclusion that the Grand Encampment asserts its jurisdiction, and expressly negates any right of the State Grand Commandery to exercise any such jurisdiction whenever, by legislation, it shall define or fix its policy, but that this Grand Commandery has in its own Constitution declared all its powers subject "*to the Grand Encampment of the United States.*"

We are no longer at liberty to discuss the policy of aiding in the formation of a Grand Encampment, or our obligation to obey all lawful orders, edicts or Statutes emanating therefrom, when such orders, edicts or Statutes are contrary to our cherished ideas, for we have voluntarily given up such right. We long clung to old powers and old traditions and were loth to yield to another Body, even though we were a constituent member thereof, the authority we had so long exercised, but we have yielded, somewhat hesitatingly and slowly, it is true, but we gave up first one claim and then another until at the last we placed ourselves in entire harmony with all Knights Templar organizations in the United States. This surrender of inde-

pendence was not complete until October 29, A. D. 1869, twelve years ago. At that time the clause above quoted was first incorporated as a part of our Constitution, since which surrender we have been loyal and true in our allegiance. Our duty in the premises cannot be better stated than it is expressed in a report of a committee written by that illustrious Knight, Sir Tracy P. Cheever, who never fails to adorn that which he touches. This report was made October 30, A. D. 1878. I make the following extract:

"Report that they have examined the Constitution of this Grand Commandery in its relation to the Constitution of the Grand Encampment of the United States, which is to be considered as the fundamental or organic law governing Templar Masonry in this country. This Constitution relates mainly to the organization, jurisdiction and general authority of the Grand Encampment to its connection with the State Grand Commanderies and its own direct subordinate Commanderies and to the scope and limitations of the functions of its officers. * * * The Constitution of the Grand Encampment, in its declaration of general principles, contains nothing, so far as your committee are aware, to which this or any other State Grand Commandery may reasonably object, so far as the interests of Templar Masonry are concerned, and to its provisions our Constitution should doubtless conform."

Suppose, now, that no Statute exists, and that the question involved is an open one, then good policy requires that a rule similar to the one made by the Statute should be established.

The exact question raised by the ruling of the Right Eminent has never arisen in this jurisdiction, except, as before stated, the one decided by Grand Master Lewis; although, a question settled by the Statute in question, to wit, the status of a Knight, a member of an old Commandery, being constituted a member of a new Commandery, was raised, and after an able and exhaustive report of the committee to whom it was referred, the Grand Commandery, October 28, A. D. 1874, passed the following resolution:

"*Resolved*, That hereafter no person already a member of a Subordinate Commandery, shall be constituted a member of a new Commandery, within this jurisdiction, without first obtaining a regular dimit from the Commandery of which he is a member."

The decision of the then Grand Commander was, "that if a Knight is a petitioner for a charter, with others, and is with others constituted into a Commandery, that such act in and of

itself works a demit from any other Commandery in which he may be a member." This ruling was based upon what was deemed the inherent power of the Grand Commandery and was made when there was no Templar regulation concerning it, and the consequent freedom to treat it as a new question in Templar Masonry. The very able committee to whom this ruling was referred, differed with the Grand Commander in his views, and such difference resulted in the passage of the last foregoing resolution. It will be seen, however, that the resolution passed does not touch the real ruling, but, if obeyed, would prevent a case that would call for any action. This resolution is still in force, as it is not in contravention of any Statute or order of the Grand Encampment, and it therefore follows that no officer of this Grand Commandery can, without violation of its lawful mandate, constitute such member of another Commandery into a new Commandery. And yet more, it was at that time competent to have gone further and passed an authoritative resolution, making the law on this subject as held by the Right Eminent, but had such action been taken, it would have become null, in so far as it conflicted with the Statute of the Grand Encampment passed in the following December.

The holding that the membership of a petitioning Knight is in abeyance in the old Commandery, is no hardship upon him, nor is it an arbitrary interference with any right vested, or otherwise. The rule being established when he first united himself with our order, it then follows that he so united himself subject to having his membership held in abeyance during the period that a Commandery for which he shall petition shall exist under and by Dispensation, and, therefore, when he signs such petition, he does it knowing the effect of such action. It is fair to suppose that whenever a Knight signs a petition for a new Commandery it is because of dissatisfaction with his then surroundings, or that the old Commandery is too large, or that he hopes to have better and more pleasant surroundings in the new Body, or some other reason so strong as to cause him to transfer his interests from the old to the new Commandery. If this is so, such Knight becomes an incubus in the old Body and may become a stumbling-block, if not a barrier, to its success. Such a condition has always appeared anomalous to me. A few of the many ways that this doctrine may work injury to the

order, are, that should such petitioning and active members so elect, (and unless the rule adopted by the Statute is in force they have the right to vote at all elections,) they could force upon the old Commandery a corps of officers very obnoxious to the majority of the old Commandery, and which fact, in their judgment, while it injured the old would benefit their own organization; and, again, it may happen that an applicant for the orders may be refused admission by a vote of a member acting under the Dispensation, and thereafter such rejected candidate may apply to the other Commandery in the same locality and the votes of such other Commandery, cast in the old Commandery, may grant the leave to receive the orders, and then in the new Body leave such applicant a clear ballot. These possibilities should not be permitted, and the only surety against such happenings is to hold the membership in the old Commandery in abeyance.

It would manifestly be bad policy to require a demit before signing a petition, as in that event should no charter issue, the petitioner would become an unaffiliated Templar, a result to be avoided both for his sake and the well-being of the order.

While I hold to the doctrine announced by me as Grand Commander, and to the Templar law as now fixed by the Grand Encampment, yet I believe the rule established by the resolution of October 28, A. D. 1874, to be proper and right, and one which all officers of this Grand Body should obey, and if obeyed, there cannot arise a case for this part of the Statute to operate upon. Indeed, without action by the Grand Encampment, it may be suggested that a Grand Commander could and should prevent any injury by refusing to recognize, either as a petitioner for Dispensation or as a proper person to be constituted, any one whom he is not satisfied is a Knight in good and regular standing and with all dues paid. Indeed, if the right of demit is conceded, that is, if dues being paid and membership in good standing exists, a demit is complete, upon demand, without action of the Commandery to which it is made, then and in that case it matters little whether a demit is demanded before being constituted or that it shall operate by notice to the Recorder of the Sir Knight's membership in a newly-constituted Body.

Some of the above thoughts, although not strictly germane

to the only question committed to your committee, are offered because this question is answered by the Statute, which Statute also establishes the other proposition, and also because the two questions are so intimately connected as to justify a consideration of both.

I am, therefore, of the opinion that the Statute shall be regarded as the fundamental law, and am constrained to differ from the decision of the learned and efficient R. E. Grand Commander, and recommend the passage of the following resolution:

Resolved, That the decision of the R. E. Grand Commander, "that neither the rights, privileges or obligations of any member or officer of Washington Commandery were impaired or changed by reason of their being petitioners for or active under the Dispensation granted to Temple Commandery, and that these were to be recognized until membership is terminated by formal dimit from Washington Commandery," is in contravention of Section 27, (2) of the Code of Statutes of the Grand Encampment, and is therefore void.

Respectfully submitted,

N. VAN SLYCK.

In Grand Commandery, October 28, 1881.

Received, ordered to be printed and distributed to the members of the Grand Commandery previous to taking final action at the Semi-annual Conclave in May, 1882.

ALFRED F. CHAPMAN,

Grand Recorder.